UNITED
NATIONS

CCPR

International Covenant
on Civil and
Political Rights

Distr.
GENERAL

CCPR/C/SR.1229
12 May 1993

ORIGINAL: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-seventh session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1229th MEETING

Held at Headquarters, New York,
on Tuesday, 6 April 1990, at 3 p.m.

Chairman: Mr. ANDO

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(a) Annual report submitted by the Human Rights Committee under article 45 of the Covenant (continued)

* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1229/Add.1.

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The meeting was called to order at 3.35 p.m.

ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SEVENTH SESSION (continued)

(a) ANNUAL REPORT SUBMITTED BY THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 45 OF THE COVENANT (continued)

(b) EFFECTIVE IMPLEMENTATION OF UNITED NATIONS INSTRUMENTS ON HUMAN RIGHTS AND EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO SUCH INSTRUMENTS (continued)

PREPARATORY ACTIVITIES RELATING TO THE WORLD CONFERENCE ON HUMAN RIGHTS (continued)

1. The CHAIRMAN, reviewing what had been discussed at the 1228th meeting, said that there had been some differences of opinion regarding the relationship between the Committee and the Security Council and the General Assembly, and the Committee would have to be cautious in its approach. A number of opinions had been expressed regarding reservations to the Covenant, but in principle, everyone had agreed to deal with that question in the general comment. In that connection, he noted that the Committee was not entitled to seek advisory opinions from the International Court of Justice, although other United Nations bodies could do so. On the question of succession to the Covenant and to international human rights instruments by seceded or newly independent States of the former Soviet Union, as far as the Committee was concerned, the issue was solved; as to the former Yugoslavia, the Committee could try to apply the same method it had used in the case of the former Soviet Republics. On the question of dispatching a member of the Committee to Member States where there was an urgent need in view of the human rights situation, the Committee had had some experience in the case of Guinea; if it found it necessary to take such action again, it could perhaps follow the same practice. There had been general support for the suggestion that the Committee should ask for a special meeting or extended session in order to deal with the backlog of reports from States Parties and communications under the Optional Protocol.

2. A number of suggestions had been made with regard to the World Conference on Human Rights; one was that the Committee should present a paper to the World Conference about its work, referring to the backlog of communications, naming those States parties whose reports were in arrears and referring to the reactions of States parties to requests for further information in connection with communications, under the Optional Protocol.

3. Mr. HERNDL said that he assumed that the paper would name the countries which had not responded to follow-up requests and would not analyse cases in which the information received from the State did not tally with that received from the author.

4. Mrs. HIGGINS said that the paper should name only those countries which were beyond any doubt in default; those countries which fell into a grey area would not be named but would be part of the numerical total.

(Mrs. Higgins)

5. On the question of the successor States to the former Soviet Union, the Secretariat should draw up a list of independent States which were regarded as having succeeded to the obligations in respect of the Covenant undertaken by the predecessor State but which had not so far chosen to accede de novo to the Covenant; the Secretariat could then be asked to send a note verbale to those States indicating that, in the Committee's view, they had succeeded to human rights obligations from the time of independence and indicating the date on which their first periodic report would be due.

6. Lastly, she said that it was her understanding that the purpose of sending a Committee member to a State party would be to assist in the preparation of reports and to facilitate cooperation with the Committee.

7. Mr. EL-SHAFEI said that the paper to be submitted to the World Conference should be comprehensive and should name the States which had not submitted an initial report or were late in submitting subsequent reports, and also refer to the follow-up to communications. It was very important that that information should be submitted to the World Conference.

8. Mr. LALLAH said that the Committee should also list the States which had complied with their obligations and the States in which the process was still ongoing.

9. Mrs. EVATT said that if the Committee was to name States which had failed to respond to follow-up requests for information, the criteria it selected must be very clear and precise.

10. The CHAIRMAN said that the criteria would have to be very clear and objective. There would be time to consult members of the Committee on the paper before the World Conference took place. He took it that the Committee wished to proceed in that manner.

11. It was so decided.

12. The CHAIRMAN recalled that, at its 1227th meeting, the Committee had decided that at its next session, the mandate of the Working Group on Communications should be limited; that new communications should be considered only if they required urgent action, that a draft should be prepared on the question of follow-up for inclusion in the annual report, and that the Working Group should be requested to make recommendations on how to proceed, given the recalcitrance of certain States. He took it that the Committee wished to proceeded in that manner.

13. It was so decided.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

14. Mrs. KLEIN (Representative of the Secretary-General) said that since the end of the Committee's previous session, reports had been received from Bulgaria, Cameroon, Costa Rica, the Libyan Arab Jamahiriya and Tunisia. Bulgaria and the Libyan Arab Jamahiriya had indicated that their reports were

(Mrs. Klein)

combined second and third periodic reports; however, in accordance with past practice, the Secretariat had issued them as second period reports. There were 15 reports currently awaiting consideration.

15. The number of overdue reports had increased to 79. Although the Secretariat sent automatic reminders to States whose reports were overdue, some States were behind with more than one report. There were now 116 States parties to the Covenant, of which 67 had ratified the first Optional Protocol, and 16 had ratified the second Optional Protocol.

16. Mrs. HIGGINS said that the Committee should indicate in its report that States parties were not permitted to combine reports and that the date a State's second report was due would be fixed by the Committee at the conclusion of its consideration of the initial report.

17. Mrs. KLEIN (Representative of the Secretary-General), responding to a question from Mr. POCAR, said that the notification by the Office of Legal Affairs of 19 February 1993 had indicated that the date of effective succession by Slovenia to treaties and agreements deposited with the Secretary-General was 25 June 1991, the date of independence.

18. The CHAIRMAN, responding to a comment from Mr. LALLAH, said that the Bureau had already contacted the Permanent Missions of Gabon and Equatorial Guinea whose initial reports were long overdue.

19. Mrs. KLEIN (Representative of the Secretary-General), replying to a question from Mrs. CHANET, said that Cambodia's accession to the Covenant had taken effect on 26 August 1992; its initial report would therefore be due on 25 August 1993.

20. The CHAIRMAN said that the Bureau considered that at the next session the Committee should consider the third periodic reports of Hungary and Japan, the second periodic report of Egypt and the initial report of Ireland. The second periodic reports of Bulgaria and the Libyan Arab Jamahiriya would be kept in reserve since those reports had been long overdue.

21. Mr. AGUILAR recalled that the Committee had also agreed to request a report on the new amnesty law and how it affected the human rights situation in El Salvador, for consideration at the forty-eighth session.

22. Mr. POCAR said that although he was willing to go along with that proposal, he would prefer the Committee to consider the report of Bulgaria, or that of the Libyan Arab Jamahiriya, both of which were nearly 10 years overdue.

23. Mrs. HIGGINS said that the Committee's special procedure under article 40 should be used only when truly major human rights violations were occurring that required the Committee's immediate attention. The current problems in El Salvador, though serious, were not very different from those in several other countries in the region, and therefore the use of the special procedure to hear the report of El Salvador did not seem justified.

24. Mr. AGUILAR noted that there had been recent reports in the United States press of serious violations of the right to life in El Salvador. The last time El Salvador had come before the Committee was in 1983. Since then, that country had experienced a very cruel war that had prompted over 1 million people - some 20 per cent of the country's population - to seek refuge abroad. Great efforts should be made to prevent El Salvador from returning to the situation of the 1980s.

25. Mr. BRUNI CELLI said that, given the current situation in El Salvador, a report should be submitted as soon as possible. Although both the Government of El Salvador and the liberation front had agreed, within the context of the peace agreement, to accept the conclusions of the Commission set up to study the most salient human rights violations, they had not yet done so. The country had just emerged from 12 years of fighting which had left the economy totally destroyed and the political structure badly damaged. For all those reasons it was a good time to call upon El Salvador to submit its report to the Committee.

26. Mr. LALLAH said that the Committee should reserve its special procedure for truly exceptional situations. There was no doubt that El Salvador's recent history had been a bloody one; however, the current situation was somewhat different.

27. Mr. MAVROMMATIS said that the Committee took reports out of the normal rotation procedure only on the basis of certain criteria. While the situation in El Salvador was urgent, in order to be consistent, the Committee should first hear a report from one of the former republics of the Soviet Union, such as Armenia or Azerbaijan.

28. The CHAIRMAN suggested that he should send a letter directly to the Foreign Minister of El Salvador requesting clarification regarding the delay in the submission of its report. If the situation remained serious the Committee could decide, at its forty-eighth session, to hear the report at the fall session.

29. Mrs. CHANET pointed out that the Committee must not allow itself to be unduly impressed by reports in the media, especially in the Western media which tended to focus on regions that corresponded to Western interests. She agreed with the Chairman's suggestion that he should contact the Foreign Minister of El Salvador directly; similar procedures should be used with respect to Haiti, the Sudan and Zaire, where the situation was perhaps even worse than in certain countries for which the special procedure had been applied.

30. Mr. AGUILAR commended the Chairman on his statement and noted that, despite repeated assurances from very high-ranking Salvadorian officials, including the President and the Minister for Foreign Affairs, that the report would be submitted, it had yet to be received. It had been 10 years since a representative of El Salvador appeared before the Committee; in the intervening period, over 100,000 people had been killed. Although the Human Rights Committee had not reacted then, it now had the opportunity to help prevent El Salvador from sliding back into a tragic period of its history by acting to deal with the serious violations that were taking place there. The Committee should not allow itself to be influenced by what was in vogue in the international news media which had lost interest in what was currently occurring in El Salvador, especially the fact that the parliament of that country was now

(Mr. Aguilar)

debating the reintroduction of legal instruments such as the death penalty, in violation of certain international obligations such as those under the American Convention on Human Rights. El Salvador wanted to denounce international human rights covenants including the International Covenant on Civil and Political Rights.

31. Mr. PRADO VALLEJO agreed with Mr. Aguilar, Mr. Bruni Celli and Mrs. Chanet that the Committee should act immediately and call upon El Salvador to submit the two overdue reports as soon as possible. In fact it should submit a report regarding the current situation in the country at the Committee's July session.

32. The report of the Commission on the Truth had not only demonstrated that horrendous human rights violations had occurred in El Salvador but had also identified the perpetrators of those crimes, many of whom remained in power. He wondered how the Committee could fail to take a decision, especially since the Salvadorian authorities had responded to the report by enacting an amnesty law to prevent the investigation of those crimes. The Committee had acted in equally difficult cases in other parts of the world and it should do so again.

33. Mrs. EVATT wanted to know whether the Committee had established criteria for the use of the special and urgent procedure. She had understood from her reading that the procedure was intended to apply to current, continuing violations of rights on a large scale.

34. The CHAIRMAN said that as far as he could recall, in the case of Iraq, the Committee had specified articles 6, 7, 9, 10 and 27 of the Covenant. In the case of the former Yugoslavia, a more general approach had been adopted. With respect to Peru, articles 4, 6, 7, 9, 19 and 25 had been cited. As regarded Serbia, Montenegro, Bosnia and Herzegovina and Croatia, articles 6, 7, 9, 10, 12 and 20 had been specified. He asked whether those who favoured a special decision on El Salvador would not be satisfied with a letter from the Chairman to the foreign ministry followed by a three-month wait.

35. Mr. AGUILAR said that in view of what had occurred in El Salvador and the Government's response to the report of the Commission on the Truth it seemed highly improbable that a letter would elicit any response. The Committee should ask the Government to submit a report and point out that it would go ahead and study the El Salvador case anyway, whether or not the report was forthcoming.

36. The CHAIRMAN said that if he heard no strong objections, he would take it that the Committee agreed to Mr. Aguilar's proposal that the Committee should decide to request general information on the current human rights situation in El Salvador, as it had done in the case of the first decision on the former Yugoslavia.

37. Mr. LALLAH said that he had very serious objections to that proposal. The Committee did not have the competence to take such action. The proposal that the Chairman should send a special letter to El Salvador as well as to Haiti, the Sudan and Zaire was an excellent one. The Committee could wait for three months and then take a decision in the light of the response it received.

38. Mr. AGUILAR proposed that the Committee should take a decision on El Salvador along the lines of the first decision it had taken on Yugoslavia requesting general information on the current human rights situation in the country.

39. Mrs. HIGGINS said that she did not think that was the proper way to proceed and preferred the Chairman's proposal.

40. The CHAIRMAN said that, if there were no objections, the Committee would adopt his original proposal to send strongly worded letters to the authorities of El Salvador as well as of Haiti, the Sudan and Zaire, asking them to submit their reports immediately.

41. It was so decided.

FUTURE MEETINGS OF THE COMMITTEE

42. The CHAIRMAN recalled that as far as the current year was concerned, the Committee had already decided that its 48th and 49th meetings would take place from 12 to 30 July 1993 and from 18 October to 6 November 1993 respectively at Geneva. The future sessions of the Committee would be held in accordance with the published schedule.

43. Mrs. CHANET, replying to a question from Mr. AGUILAR concerning Haiti, said that the letter would be addressed to the Government that was recognized by the international community and that had a seat at the United Nations. If that Government was unable to provide the information the Committee sought, the Committee could secure such information from non-governmental organizations and study the situation of Haiti in the light of the provisions of the Covenant.

44. The CHAIRMAN, replying to a question from Mrs. HIGGINS, said that the extended session would be the spring session.

The meeting rose at 5.20 p.m.